UNITED STATES PATENT AND TRADEMARK OFFICE

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/938,602	08/27/2001	Hsiang Tsun Yen	YENH3001/EM/7170	2370

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EXAMINER
KENDALL, CHUCK O

ART UNIT	PAPER NUMBER
2192	

DATE MAILED: 05/20/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

PTO-90C (Rev. 10/03)

	Application No.	Applicant(s)
Office Action Summary	09/938,602	YEN, HSIANG TSUN
	Examiner	Art Unit
	Chuck Kendall	2192

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE <u>3</u> MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.
- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
  Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *16 December 2004*.

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-10* is/are pending in the application.

    4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-10* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

    Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

    Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

    a)☐ All b)☐ Some * c)☐ None of:

      1.☐ Certified copies of the priority documents have been received.

      2.☐ Certified copies of the priority documents have been received in Application No. _____.

      3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

    * See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1)☐ Notice of References Cited (PTO-892)

2)☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
    Paper No(s)/Mail Date _____.

4)☐ Interview Summary (PTO-413)
    Paper No(s)/Mail Date. _____.

5)☐ Notice of Informal Patent Application (PTO-152)

6)☐ Other: _____.

DETAILED ACTION

1.   This action is in response to the application filed 12/16/04.

2.   Claims 1 – 10 are pending.

Claim Rejections - 35 USC § 103

3.   The following is a quotation of 35 U.S.C. 103(a) which forms the basis for

all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described
> as set forth in section 102 of this title, if the differences between the subject matter sought to
> be patented and the prior art are such that the subject matter as a whole would have been
> obvious at the time the invention was made to a person having ordinary skill in the art to which
> said subject matter pertains. Patentability shall not be negatived by the manner in which the
> invention was made.

4.   Claims 1 – 10 are rejected under 35 U.S.C. 103(a) as being unpatentable

over Nonaka et al. USPN 5,619,716 in view of Fiske 6,324,692 B1.

Regarding claim 1, a method for updating an executing application

software in a module manner (for updating executing application software, see

using identical versions at any time, 3: 1 – 5) comprising:

a client computer executing a first application software and raising a

request (FIG. 6, 1801, and associated text), the first application software

including a plurality of first function modules, the client computer storing a first

configuration file (FIG. 5, 1901 A, see configuration file for client A), the first

configuration file further having a first application software version identification

code respective to the first application software and a plurality of first function

module version identification codes, (FIG.6, step 1802, see check configuration

of client, also see associated text) each of the first function module version

identification codes being respective to one of first function modules, the client

computer further having a first storage location (3:37 – 40) and a second
storage location.

a server accepting the request and sending out a second configuration file
to the client computer according to the request (FIG. 6, also see associated
text), the second configuration file having an application software name, a file
location (3: 50 – 55, see program and version, also see configuration file from
FIG. 5, and since it can be implemented with multiple clients in a networked
environment, it would be inherent to identify each client through either name or
location), a second application software version identification code and a
plurality of second function module version identification codes, the file location
being respective to a storage device (3:43 – 46), the storage device storing a
second application software respective to the application software name (3: 50 –
55, for storage means), the second application software version identification
code being respective to the second application software, the second
application software including a plurality of second function modules, each of the
second function module version identification codes being respective (3: 55 –
57, shows versioning) to a second function module, and each of the first function
modules being respective to a second function module (3:43 – 57); and the
client computer executing following steps:

(a) the first application software receiving the second configuration file
(FIG.6, 1802);

(b) the first application software determining whether or not the second
application software version identification code is the same as the first
application software version
identification code; if yes, keeping executing the first application software; if no,
going to step (c) (FIG. 6, 1804 & 1805);

(c) the first application software determining whether or not the second
function module version identification code is the same as the respective first
function module version identification code (Nonaka, 9:31 – 33);

if yes, going to step (d); if no, going to step (e) (FIG. 19, 1333 – 1335);

(d) the first application software determining whether or not any unprocessed second function module version identification code exists (FIG.6, 1805); if yes, going to step (c) for determining the next second function module version identification code; if no, going to step (f) (FIG. 6, 1809);

(e) the first application software following the file location of the second configuration file to connect the respective storage device for downloading and storing the second function module respective to the second function module version identification code; then, going to step (FIG. 19, 1334, see receive content, same as downloading, also see Nonaka, 9:31 – 45) (d);

(f) the first function module stored in the first storage location duplicating the second function module respective to the first function module stored in the second storage location to the second storage location for replacing the respective first function module(3: 40 –65, see replace and comparing the second storage means and second equipment);

(g) the first function module stored in the first storage location starting the first function module stored in the second storage location (FIG.3, 2730);

(h) ending the first function module stored in the first storage location (FIG.3, 2730 and see last step "end", also see Nonaka, 3:43 – 57).

Nonaka discloses manually electing by a user whether or not to update the program, and depending on whether an update is selected the update is either ended or proceeds to the next step of updating the software (15:17 – 27). Nonaka doesn't explicitly dividing into a first group and a second group, and the first function modules of the first group duplicating the second function module respective to the first function module for replacing the respective first function module. However, Fiske discloses in an analogous art creating a backup of original program *(i.e. copying original program into another location or duplicating as used in prior art)* prior to performing update (FIG. 2, 110), and depending on if update is successful being able to revert back to previous version (FIG.2, 190).

Therefore it would have been obvious to one of ordinary skills in the art at the time the invention was made to combine Nonaka and Fiske because, copying or backing up the program would enable one the ability to restore the system in the event of a system crash or software conflict.

Regarding claim 2, the method for updating an executing application software in a module manner according to claim 1, wherein said step (h) includes: said first

function module stored in said first storage location ending by itself (Nonaka, 3: 37 – 40).

Regarding claim 3, the method for updating an executing application software in a module manner according to claim 1, wherein said step (h) includes: said first

function module stored in said second storage location ending said first function module stored in said first storage location (Nonaka, 3: 43 – 47).

Regarding claim 4, the method for updating an executing application software in a module manner according to claim 1, wherein said storage device is an external server (Nonaka, FIG.1, 10 & 15).

Regarding claim 5, the method for updating an executing application software in a module manner according to claim 1, wherein said server includes said storage device (Nonaka, FIG. 1, 15).

Regarding claim 6, the method for updating an executing application software in a module manner according to claim 1, wherein said client computer replaces said first

configuration file with said second configuration file while said second application software version identification code is not the same as said first application software version identification code (Nonaka, 3: 57 –59).

Regarding claim 7, which recites the system version of claim 1, see rationale above as previously discussed.

Regarding claim 8, which recites the system version of claim 4, see rationale above as previously discussed.

Regarding claim 9, which recites the system version of claim 5, see rationale above as previously discussed.

Regarding claim 10, which recites the system version of claim 6, see rationale above as previously discussed.

Response to Arguments

5.   Applicant's arguments filed 12/16/04 have been fully considered but they are not persuasive. Regarding Applicant's arguments in response dated 12/16/2004 on pages 2 - 3, Applicant argues that Nonaka doesn't teach any steps corresponding to the claimed comparisons (determination of whether is the same) on the client side, stating that Nonaka compares the configuration files on the server.

Responding, Examiner disagrees. Nonaka does in fact teach the ability to compare on the client side, to relieve stress from server, "whenever the redirector 27 in the client 20 is to be connected to the server 10, it checks whether or not its own version is the newest...".(Nonaka, 9:31 – 33). Also note regarding Applicant's argument with reference to downloading, Nonaka actively performs checking its own software against the more previous software before downloading (9:33 – 36).

Applicant also argues that Prior art doesn't disclose terminating original module after executing new module, stating the limitation of " ending the first function module stored in the first storage location" and " first function module stored in the first storage location starting the first function module stored in the second storage location" are not taught in Fiske.

Responding, Examiner again believes that Nonaka again does disclose

this limitation. Nonaka teaches 3:43 – 57, executing and replacing the first

stored program with the second (newer) program after making determination that

the second program is newer. Examiner interprets this to be equivalent to

Applicant's claimed limitation. Applicant argues that this limitation is not taught

by Fiske, when in fact the limitation is being provided by Nonaka and not Fiske in

the original presentation of claimed rejections above in claim 1. Therefore

Applicant's argument that Fiske doesn't teach the above cited limitation is moot.

Conclusion

6.   **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of

time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire

THREE MONTHS from the mailing date of this action. In the event a first reply is

filed within TWO MONTHS of the mailing date of this final action and the advisory

action is not mailed until after the end of the THREE-MONTH shortened statutory

period, then the shortened statutory period will expire on the date the advisory

action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be

calculated from the mailing date of the advisory action. In no event, however, will

the statutory period for reply expire later than SIX MONTHS from the mailing
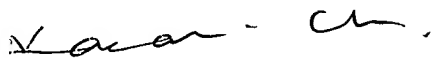
date of this final action.

Any inquiry concerning this communication or earlier communications from

the examiner should be directed to Chuck Kendall whose telephone number is

571-272-3698. The examiner can normally be reached on 10:00 am - 6:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Tuan Dam can be reached on 571-272-3695. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Ck.

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